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FOR INCLUSION IN THE ADMINISTRATIVE RECORD

US EPA RECORDS CENTER REGION 5



426538

Fed. R. Civ. P. 408
Inadmissible Settlement Discussions

January 17, 2012

VIA ELECTRONIC AND U.S. MAIL

Ms. Michelle Kerr
Remedial Project Manager
U.S. Environmental Protection Agency – Region 5
Superfund Division (SR-6J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Ms. Margaret Herring
Civil Investigator
U.S. Environmental Protection Agency – Region 5
Superfund Division (SR-6J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Re: Response of Moen, Inc. to the November 30, 2011 General Notice Letter
Chemetco Superfund Site – Hartford, Illinois and Request for De Minimis
Settlement Eligibility

Dear Ms. Kerr and Ms. Herring:

This letter is submitted on behalf of Moen Incorporated (“Moen”) in response to the U.S. EPA’s General Notice Letter for the Chemetco Superfund Site (the “Site”), dated November 30, 2011. The United States Environmental Protection Agency (“U.S. EPA”) agreed at the informational meeting on December 20, 2011 to extend the deadline for this response to January 17, 2012. Please note that Moen is also responding to the request in the General Notice Letter to contact Ms. Herring concerning requests for de minimis settlements, which we submit herein as well.

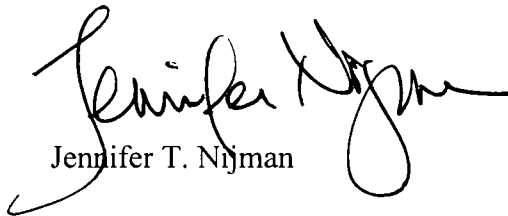
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In the January 17, 2012 meeting, U.S. EPA stated it would develop a contact list of the attendees in order for the parties to discuss this matter further. That list has not been provided. In addition, U.S. EPA agreed to provide the parties with a DVD containing information on the Site as well as nexus information for each party. We submitted a request for that information and just received it this week. We will need time to review the information before making any commitments to participate in formal negotiations.

Moreover, Moen has significant questions concerning the Site that need to be addressed before any negotiations to conduct remedial activities can occur. First, Moen disagrees with U.S. EPA's statements that none of the parties receiving the notice letter, including Moen, meet the criteria for an exemption from CERCLA liability under the Superfund Recycling Equity Act ("SREA"). Second, Moen notes that U.S. EPA's failure to notify all 1,814 potentially responsible parties due to "administrative convenience" serves as a disincentive for the 108 noticed parties to take action. A related concern is whether U.S. EPA will address what appears to be a significant "orphan share" for Delphi Automotive, the largest contributor of materials to Chemetco.

Moen continues to maintain its denial of any and all liability alleged by the governments or by any other potentially responsible party. Despite the numerous issues presented by the Site, Moen is amenable to continuing discussions as part of a group of participants in order to arrive at a swift and agreeable resolution to its alleged involvement, without admitting any liability and subject to a full reservation of rights.

Sincerely,



Jennifer T. Nijman

JTN/ibb

cc: Stephanie C. Slatkin